IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.605 OF 2007

M/s.Mukand Ltd. (formerly known as
M/s.Mukand Iron & Steel Works Ltd.) .. Petitioners.
Vs.
T.S.Zavare & Ors. .. Respondents.

Mr.J.P.Cama for the petitioners.
Mrs.Lata Desai for respondent no.1.
Mrs.U.V.Kejariwal APP for respondent no.4.

CORAM : SMT.RANJANA DESAI &
D.B.BHOSALE, JJ.
DATED : 12TH JUNE, 2007.

P.C.:

. The petitioners have challenged the order dated 27.10.05 passed by the First Labour Court, Thane whereby Shri Madan Ingle, the authorised representative of its predecessor company M/s.Mukand Iron and Steel Works Ltd. is convicted of the offences under clause 44 of Bombay Iron and Steel Unprotected Workers (Regulation of Employmnt & Welfare) Scheme, 1970 r/w clause 14 of said scheme and section 3(3) of Maharashtra Mathadi, Hamal & Other Manual Workers (Regulation of Employment & Welfare) Act, 1969 and the order dated 27.2.07 passed by the Industrial Court, Thane, whereby appeal preferred against the said order of conviction and sentence was dismissed.

2. We have heard Mr.Cama, learned senior counsel for the petitioners and learned counsel for respondent no.1. Mr.Cama submitted that the impugned orders deserve to be set aside as they are perverse. He submitted that cross examination of the complainant's witnesses has not been considered by both the courts. This has resulted in miscarriage of justice. He submitted that in any event it was wrong on the part of the courts below to convict Mr.Ingle whose name was not even mentioned in the complaint. He submitted that in the circumstances the impugned orders be set aside.

3. In our opinion the orders of the court below cannot be characterised as perverse warranting interference under Article 227 of the Constitution of India. In this connection we may usefully refer to the judgment of the Supreme Court in **Mrs.Labhkumar Bhagwani Shaha and Others Vs. Janardhan Mahadeo Kalan and Anr. CDJ 1982 SC 106** where the Supreme Court has held that while exercising jurisdiction under Article 227 of the Constitution the High Court cannot convert a pure question of fact requiring adjudication on appreciation of evidence into even a mixed question of law and fact entitling it to interfere.

4. In the circumstances the petition is rejected. We, however, need to make some clarification. The operative part of the order dated 27.10.05 states that authorised representative Shri Madan Ingle of company M/s.Mukand Iron & Steel Works Ltd. is convicted. Shri Madan Ingle was not cited as accused in the complaint and his name nowhere appears in the complaint. Infact the officers, whose names were earlier mentioned in the complaint were later on dropped. This position is accepted by learned counsel for respondent no.1. Therefore, M/s.Mukand Iron & Steel Works Ltd. can be convicted and not Shri Madan Ingle. Hence we clarify that under the impugned orders M/s.Mukand Iron and Steel Ltd. is convicted and not Shri Madan Ingle.

(SMT.RANJANA DESAI, J.)

(D.B.BHOSALE, J.)